

Notice of Allowability	Application No.	Applicant(s)	
	09/914,220	SCHULZ, BURKHARD	
	Examiner	Art Unit	
	Stuart F. Baum	1638	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed 8/10/2005.
2. ☒ The allowed claim(s) is/are 14, 17-20, 23-27 (renumbered 1-10).
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>08 / 24 / 05</u> |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

Stuart F. Baum

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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with G. Patrick Sage on 8/24/2005.

IN THE CLAIMS:

Claims 16, 21-22, and 28-29 have been canceled.

--14. (currently amended) An isolated nucleic acid [sequence] molecule comprising the sequence set forth in SEQ ID NO:2.--

--17. (currently amended) A vector comprising [a] the nucleic acid [sequence] molecule of claim 14.

18. (currently amended) The vector of claim 17, further comprising one or more regulatory elements that ensure the transcription and/or translation of the nucleic acid [sequence] molecule of claim 14, said regulatory elements operably linked thereto.

19. (currently amended) A method for the production of plants, comprising the stable integration of the nucleic acid [sequence] molecule of claim 14 into the genome of plant cells or plant tissues, and the regeneration of these modified plant cells or plant tissues into plants.

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20. (currently amended) The method of claim 19, wherein the integrated nucleic acid [sequence] molecule further comprises one or more regulatory elements which ensure the transcription and/or translation of the nucleic acid [sequence] molecule, said regulatory elements operably linked thereto.--

--23. (currently amended) The method of claim 19, wherein the nucleic acid [sequence] molecule is integrated via homologous recombination into the genomic region of the homologous endogenous gene.

24. (currently amended) A transformed plant cell or transformed plant tissue, each comprising [a stable integrated] the nucleic acid [sequence] molecule of claim 14 [in] stably integrated into the genome of the plant cell or plant tissue.

25. (currently amended) A seed producing plant regenerated from the [The] plant cell or plant tissue according to claim 24[, regenerable to a seed producing plant].

26. (currently amended) A transgenic plant [and] or its seeds, each comprising [a] the recombinant nucleic acid [sequence] molecule according to claim 14.

27. (currently amended) The isolated nucleic acid of claim 14 which encodes [a] the polypeptide of the sequence set forth in SEQ ID NO:3.--

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stuart F. Baum whose telephone number is 571-272-0792. The examiner can normally be reached on M-F 8:30-5:00.

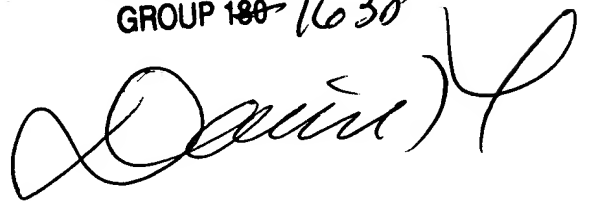
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones can be reached on 571-272-0745. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

Stuart F. Baum Ph.D.
Patent Examiner
Art Unit 1638
August 30, 2005

DAVID T. FOX
PRIMARY EXAMINER
GROUP 180-1638

A handwritten signature in black ink, appearing to read "David T. Fox", with a large, stylized flourish at the end.